

IN THE DISTRICT COURT OF MADISON COUNTY, NEBRASKA

JUANA SIXTOS,)	Case No. CI22-__
)	
Plaintiff,)	
)	
v.)	COMPLAINT AND PRAECIPE
)	
BENJAMIN A. HOFER,)	
individually, AND S&T)	
TRUCKING)	
TRANSPORTATION, LL, a)	
South Dakota Limited Liability)	
Company,)	
)	
Defendants.)	

GENERAL ALLEGATIONS

Plaintiff alleges:

1. Jurisdiction and Venue. This Court has jurisdiction of the subject matter of this action, and the parties, pursuant to Neb. Rev. Stat. §24-302, and other provisions of law. Venue is proper in Madison County, Nebraska, pursuant to Neb. Rev. Stat. §25-409 for the reason that this cause of action arose in Madison County, Nebraska.

2. Plaintiff. Plaintiff is a resident of Norfolk, Madison County, Nebraska, residing at 410 West Indiana Avenue, Norfolk, Nebraska 68701.

3. Defendants. Defendant, Benjamin A. Hofer, is believed to be a resident of Scotland, South Dakota, residing at 530 Korb Street, Scotland, South Dakota, 57059. Defendant, S&T Trucking Transportation, LL, is a Limited Liability Company with its principal place of business at P.O. Box 400, Parkston, South Dakota 56366.

4. Doctrine of Respondeat Superior. At all material times herein, Defendant Hofer was an employee of Defendant S&T Trucking Transportation, LL, and was engaged in the course and scope of his employment with said Defendant. The acts of negligence of Defendant Hofer are imputed to Defendant S&T Trucking Transportation, LL, under the Doctrine of Respondeat Superior.

FIRST CAUSE OF ACTION

5. Scene and Time. On or about January 29, 2020, at approximately 4:25 p.m., a collision of the vehicles hereinafter described occurred along the 1300 block of West Michigan Avenue in Norfolk, Madison County, Nebraska, where Michigan Avenue intersects with South 13th Street. At the time and place where the collision occurred, 13th Street traverses north and south and is also known as Highway 81. Michigan Avenue traverses east and west.

6. Collision. At the aforementioned time and place, the Plaintiff was a passenger in a 2001 Ford Exploraran automobile operated by her husband, Domitilo Sixtos, as it proceeded west bound into the 1300 block of West Michigan Avenue. The vehicle operated by Plaintiff's husband had a green light and was going through the intersection at South 13th Street and Michigan Avenue. Traffic for the vehicle operated by the Defendant was stopped for traffic as noted by a red traffic light, however, the vehicle operated by Defendant Hofer continued north bound through the intersection, through the red light, striking the vehicle operated by Plaintiff's husband, forcing it off the road way causing it to strike a traffic post and coming to rest on 13th Street after making the vehicle spin multiple times. At the time the vehicle in which the Plaintiff was a passenger was struck, she was utilizing her lap and shoulder belt restraints. The Plaintiff was thrown about within the vehicle as a result of the motor vehicle collision causing injuries to the Plaintiff. Defendant's vehicle also struck the traffic post as a result of the motor vehicle collision.

7. Negligence of Defendants. Negligence was caused solely and proximately by the negligence of Defendant Benjamin A. Hofer, individually and on behalf of Defendant, S&T Trucking Transportation, LL, and in the scope of his employment with S&T Trucking Transportation, LL, as follows:

- a. Defendant failed to keep a proper lookout;
- b. Defendant failed to exercise reasonable control over his vehicle; and
- c. Defendant operated his vehicle in entering the intersection at 13th Street and Michigan Avenue without yielding to traffic in compliance with a traffic signal.

8. Injuries. As a direct and proximate result of the acts of negligence as alleged herein, Plaintiff has sustained severe excruciating pain, mental and physical anguish, discomfort and disability, permanent in nature, and injuries including as follows:

- a. Laceration of the left cheek;
- b. Neck pain;
- c. Right shoulder pain;
- d. Right knee pain; and
- e. Significant headache,
- f. Snapping Scapula Syndrome/Scapulothoracic Bursitis - right shoulder.

9. General and Special Damages. As a further direct and proximate result of the aforescribed acts of negligence of Defendants, Plaintiff has sustained damages, including general damages for severe, excruciating pain, mental and physical anguish, discomfort and disability which is permanent in nature, and special damages. Plaintiff has also sustained a permanent loss of earning capacity, and will continue to incur future pain, disability and discomfort, and medical expenses which are continuing in nature.

SECOND CAUSE OF ACTION

Plaintiff, for her Second Cause of Action, alleges:

10. Incorporation. Plaintiff incorporates all of the averments of paragraphs 1-9 of her General Allegations and her First Cause of Action as though fully set forth herein.

11. Assignment. The Plaintiff is the assignor of all claims of her spouse, Domitilo Sixtos, pursuant to an executed Assignment, a copy of which is attached hereto, marked Exhibit "1", and incorporated herein.

12. Loss of Consortium. Plaintiff's assignee, Domitilo Sixtos, as the husband of Plaintiff, has sustained the loss of Plaintiff's services, companionship, consortium in society, to his general damage. Plaintiff's assignee has further incurred liability for the medical care, treatment, and expenses of Plaintiff all as averred in the First Cause of Action.

PRAYER

WHEREFORE, Plaintiff prays for judgment for special damages on her First Cause of Action, for general damages on her First and Second Causes of Action, together with the costs of this action and any further relief the Court deems appropriate.

Dated this 16 day of March, 2022.

JUANA SIXTOS, Plaintiff,

By: 

Kathleen Koenig Rockey, #18393

Attorney for Plaintiff

Copple, Rockey, Schlecht, Mason & Werth,
P.C., L.L.O.

2425 Taylor Avenue

P.O. Box 78

Norfolk, NE 68701

Phone: (402) 371.4300

Facsimile: (402) 371.0790

Email: kkrockey@greatadvocates.com

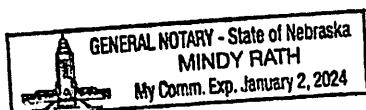
VERIFICATION

STATE OF NEBRASKA)
) ss.
COUNTY OF Madison)

Juana Sixtos, being first duly sworn upon her oath, deposes and says that she has read the contents of the foregoing Complaint and Praeclipe, has been read to her and translated to a language that she can understand, and knows the facts therein stated are true as she verily believes.

Juana Sixtos
Juana Sixtos, Plaintiff

The foregoing instrument was sworn to me this 13th day of January, 2022, by Juana Sixtos.



Mindy Rath
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF Madison)

I, Domitilo Sixtos, being first duly sworn upon my oath,
hereby certify that I speak both English and Spanish and that I have accurately
translated the foregoing document for Juana Sixtos prior to her signing the same.

D. Sixtos
Domitilo Sixtos, Translator

The foregoing instrument was sworn to me this 13th day of January,
2022, by Domitilo Sixtos.

Mindy Ralff
Notary Public

ASSIGNMENT OF CLAIMS

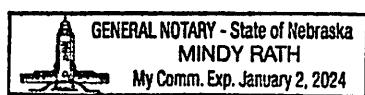
I, Domitilo Sixtos, hereby assign any and all claims for loss of consortium, including the denial of care, comfort, companionship, society, love and affection, to my spouse, Juana Sixtos, as a result of injuries she sustained in an automobile accident on January 29, 2020, in Madison County, Nebraska.

Dated this 13th day of January, 2022.

By D. Sixtos
Domitilo Sixtos

STATE OF NEBRASKA)
) ss.
COUNTY OF Madison)

The above and foregoing Assignment of Claims was subscribed and sworn to before me this 13th day of January, 2022, by Domitilo Sixtos.



Mindy Rath
Notary Public

Exhibit "1"

PRAECIPE

TO: CLERK OF THE MADISON DISTRICT COURT

Pursuant to *Neb. Rev. Stat.* §25-505.01, *et seq.*, please issue a Summons directed to the Sheriff of Hutchinson County, South Dakota, commanding him to serve the Summons and a copy of the Complaint upon the defendant, currently located at:

Mr. Benjamin Hofer
530 Korb Street
Scotland, SD 57059-7200

Please direct the Sheriff to make the service as follows:

1. Please serve by delivering the Summons to Mr. Benjamin Hofer, if possible, at the above address.

Please endorse upon the Summons: "For judgment for special damages on Plaintiff's First Cause of Action, for general damages on Plaintiff's First and Second Causes of Action, together with the costs of this action and any further relief the Court deems appropriate."



Kathleen K. Rockey, #18393

PRAECIPE

TO: CLERK OF THE MADISON DISTRICT COURT

Pursuant to *Neb. Rev. Stat.* §25-505.01, *et seq.*, please issue a Summons directed to the Sheriff of Bon Homme County, South Dakota, commanding him to serve the Summons and a copy of the Complaint upon the defendant, currently located at:

S&T Trucking Transportation, LLC
803 South Ben Street
P.O. Box 400
Parkston, SD57366

Please direct the Sheriff to make the service as follows:

1. Please serve by delivering the Summons to S&T Trucking Transportation, LLC, if possible, at the above address.

Please endorse upon the Summons: "For judgment for special damages on Plaintiff's First Cause of Action, for general damages on Plaintiff's First and Second Causes of Action, together with the costs of this action and any further relief the Court deems appropriate."



Kathleen K. Rockey, #18393

Image ID:
D00068108D07**SUMMONS**

Doc. No. 68108

IN THE DISTRICT COURT OF Madison COUNTY, NEBRASKA
 PO Box 249
 Madison NE 68748

Juana Sixtos v. Benjamin A. Hofer

Case ID: CI 22 119

TO: Benjamin A Hofer

FILED BYClerk of the Madison District Court
03/24/2022

You have been sued by the following plaintiff(s):

Juana Sixtos

Plaintiff's Attorney: Kathleen K Rockey
 Address: 2425 Taylor
 P.O. Box 78
 Norfolk, NE 68702-0078
 Telephone: (402) 371-4300

A copy of the complaint/petition is attached. To defend this lawsuit, an appropriate response must be served on the parties and filed with the office of the clerk of the court within 30 days of service of the complaint/petition. If you fail to respond, the court may enter judgment for the relief demanded in the complaint/petition.

Nebraska Supreme Court Rule 2-208 requires individuals involved in a case who are not attorneys and representing themselves to provide their email address to the court in order to receive notice by email from the court about the case. Complete and return the attached form to the court if representing yourself.

Date: MARCH 24, 2022

BY THE COURT:

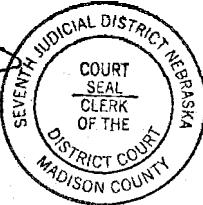

 Clerk


Image ID:
D00068108D07

SUMMONS

Doc. No. 68108

PLAINTIFF'S DIRECTIONS FOR SERVICE OF SUMMONS AND A COPY OF THE COMPLAINT/PETITION ON:

Benjamin A Hofer
530 Korb Street
Scotland, SD 57059

BY: Foreign Officer

Method of service: Personal Service

Special Instructions:

For judgment for special damages on Plaintiff's First Cause of Action,
for general damages on Plaintiff's First and Second Cause of Action,
together with costs of action and any further relief Court orders.

You are directed to make such service within twenty days after date of issue,
and show proof of service as provided by law.

SERVICE RETURN

Doc. No. 68108

Madison District Court
 PO Box 249
 Madison NE 68748

To: Foreign Officer
 Case ID: CI 22 119 Juana Sixtos v. Benjamin A Hofer

Received this Summons on _____, _____. I hereby certify that on
 _____, ____ at _____ o'clock __M. I served copies of the Summons
 upon the party:

 by _____

as required by Nebraska state law.

Service and return \$ _____

Copy _____

Mileage ____ miles _____

TOTAL \$ _____

Date: _____ BY: _____
 (Sheriff or authorized person)

**CERTIFIED MAIL
 PROOF OF SERVICE**

Copies of the Summons were mailed by certified mail,
 TO THE PARTY: _____

At the following address: _____

on the _____ day of _____, as required by Nebraska state law.

Postage \$ _____ Attorney for: _____

The return receipt for mailing to the party was signed on _____, _____.

To: Benjamin A Hofer
 530 Korb Street
 Scotland, SD 57059

From: Kathleen K Rockey
 2425 Taylor
 P.O. Box 78
 Norfolk, NE 68702-0078

ATTACH RETURN RECEIPT & RETURN TO COURT

Image ID:
D00068109D07**SUMMONS**

Doc. No. 68109

IN THE DISTRICT COURT OF Madison COUNTY, NEBRASKA
 PO Box 249
 Madison NE 68748

Juana Sixtos v. Benjamin A. Hofer

Case ID: CI 22 119

TO: S&T Trucking Transportation LLC

FILED BYClerk of the Madison District Court
03/24/2022

You have been sued by the following plaintiff(s):

Juana Sixtos

Plaintiff's Attorney: Kathleen K Rockey
 Address: 2425 Taylor
 P.O. Box 78
 Norfolk, NE 68702-0078
 Telephone: (402) 371-4300

A copy of the complaint/petition is attached. To defend this lawsuit, an appropriate response must be served on the parties and filed with the office of the clerk of the court within 30 days of service of the complaint/petition. If you fail to respond, the court may enter judgment for the relief demanded in the complaint/petition.

Nebraska Supreme Court Rule 2-208 requires individuals involved in a case who are not attorneys and representing themselves to provide their email address to the court in order to receive notice by email from the court about the case. Complete and return the attached form to the court if representing yourself.

Date: MARCH 24, 2022

BY THE COURT:

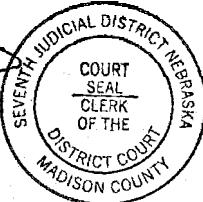

 Clerk


Image ID:
D00068109D07

SUMMONS

Doc. No. 68109

PLAINTIFF'S DIRECTIONS FOR SERVICE OF SUMMONS AND A COPY OF THE COMPLAINT/PETITION ON:

S&T Trucking Transportation LLC
803 South Ben Street
Parkston, SD 57366

BY: Foreign Officer

Method of service: Personal Service

Special Instructions:

For judgment for special damages on Plaintiff's First Cause of Action,
for general damages on Plaintiff's First and Second Cause of Action,
together with costs of action and any further relief Court orders.

You are directed to make such service within twenty days after date of issue,
and show proof of service as provided by law.

SERVICE RETURN

Doc. No. 68109

Madison District Court
 PO Box 249
 Madison NE 68748

To: Foreign Officer
 Case ID: CI 22 119 Juana Sixtos v. Benjamin A Hofer

Received this Summons on _____, _____. I hereby certify that on
 _____, ____ at _____ o'clock __M. I served copies of the Summons
 upon the party:

 by _____

as required by Nebraska state law.

Service and return \$ _____

Copy _____

Mileage ____ miles _____

TOTAL \$ _____

Date: _____ BY: _____
 (Sheriff or authorized person)

**CERTIFIED MAIL
 PROOF OF SERVICE**

Copies of the Summons were mailed by certified mail,
 TO THE PARTY: _____

At the following address: _____

on the _____ day of _____, as required by Nebraska state law.

Postage \$ _____ Attorney for: _____

The return receipt for mailing to the party was signed on _____, _____.

To: S&T Trucking Transportation LLC
 803 South Ben Street

Parkston, SD 57366

From: Kathleen K Rockey
 2425 Taylor
 P.O. Box 78

Norfolk, NE 68702-0078

ATTACH RETURN RECEIPT & RETURN TO COURT

SERVICE RETURN

Madison District Court
PO Box 249
Madison NE 68748

To: Foreign Officer

Case ID: CI 22 119 Juana Sixtos v. Benjamin A Hofer

Received this Summons on 31st March 2022. I hereby certify that on

March 31st, 2022 at 9:00 o'clock AM. I served copies of the Summons upon the party:

Ryan Holzbauer Manager

by _____

as required by Nebraska state law.

Service and return \$.50.00

Copy _____

Mileage .52 miles .26.00TOTAL \$.76.00Date: 3-31-22 BY: James Reeb
(Sheriff or authorized person)CERTIFIED MAIL
PROOF OF SERVICE

Copies of the Summons were mailed by certified mail,

TO THE PARTY: _____

At the following address: _____

on the _____ day of _____, as required by Nebraska state law.

Postage \$ _____ Attorney for: _____

The return receipt for mailing to the party was signed on _____.

To: S&T Trucking Transportation LLC
803 South Ben Street
Parkston, SD 57366

From: Kathleen K Rockey
2425 Taylor
P.O. Box 78
Norfolk, NE 68702-0078

ATTACH RETURN RECEIPT & RETURN TO COURT

STATE OF NEBRASKA }
COUNTY OF MADISON COUNTY }

IN DISTRICT COURT

JIAMA SIXTOS

File No: D07CI220000119

VS PLAINTIFF
BENJAMIN A. HOFER

SHERIFF'S RETURN
OF PERSONAL SERVICE

DEFENDANT

STATE OF SOUTH DAKOT. }
COUNTY OF HUTCHINSON }

I hereby certify that on the 29TH day of MARCH, 2022, the following documents, in the above entitled action, came into my hand for service:

SUMMONS, COMPLAINT AND PRAECIPE

That on the 31ST day of MARCH, 2022, at 803 SOUTH BEN ST., PARKSTON, SD in said county

I did serve the within documents
 I did not serve the within documents.
 I did return said execution unsatisfied.
 I did return said execution fully satisfied.
 I did return said execution partially satisfied.

on S&T TRUCKING TRANSPORTATION

by then and there delivering to and leaving with RYAN HOLZBAUER, MANAGER
a true copy of said documents.

(at the dwelling house of the said defendant with said person who was then a member of the family (or of the family of which he resides) over the age of fourteen years and that service was so made for the reason that I could not find the said defendant conveniently in said county).

by public auction at the front steps of the courthouse.

Sheriff's Fees

Service of Process \$50.00

Same time Service

Mileage 52 at \$0.50 \$26.00

Documents Rec'd From:

COPPLE, ROCKEY, SCHLECHT & MASON P.

Total \$76.00

JAMES ZEEB SHERIFF

Date: March 31, 2022

By:

James Zeeb

Certificate of Service

I hereby certify that on Thursday, April 07, 2022 I provided a true and correct copy of the Return-Summons/Alias Summons to the following:

Hofer,Benjamin,A service method: No Service

S&T Trucking Transportation LLC service method: No Service

Signature: /s/ Rockey,Kathleen,Koenig (Bar Number: 18393)